

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

11-CR-6177L

v.

TABARI FACEN,

Defendant.

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This Court referred all pretrial motions to United States Magistrate Judge Jonathan W. Feldman pursuant to 28 U.S.C. § 636(b). Defendant, Tabari Facen (“Facen”), duly filed a motion to suppress evidence seized from a residence at 303 Lakeview Park, Rochester, New York, which was obtained pursuant to execution of a court ordered search warrant issued by Rochester City Court Judge Ellen Yacknin.

Magistrate Judge Feldman issued a thorough Report and Recommendation (Dkt. #29) rejecting Facen’s claims and recommending that the motion to suppress be denied. Facen filed Objections to that Report and Recommendation (Dkt. #31).

I have reviewed the Magistrate Judge’s Report and Recommendation and the Objections, and I find no reason to alter, modify or reject the Magistrate Judge’s Report and Recommendation. Facen claimed that there was not probable cause to support issuance of the warrant and that the information supporting the application was stale. The Magistrate Judge rejected both arguments, and I do as well. As pointed out in Magistrate Judge Feldman’s Report and Recommendation, the affiant, Rochester Police Investigator Martin Logan, reported that there had been two buys by a confidential informant of a quantity of cocaine for \$150.00. According to Investigator Logan, the

confidential informant had previously given reliable information which led to other purchases of drugs which resulted in arrests and convictions. Within a few days of obtaining the warrant, it was executed at the premises resulting in the seizure of a firearm, cocaine, drug packaging paraphernalia and over \$1,200.00 in cash.

The Magistrate Judge set forth the facts and the relevant legal authority, and I agree with his assessment of the facts and the law and find no basis to conclude that the evidence seized pursuant to the search warrant should be suppressed. In any event, I agree with Magistrate Judge Feldman that the officers who sought the warrant, and obtained it, were entitled to rely on its issuance, in good faith under the dictates of *United States v. Leon*, 468 U.S. 897 (1984).

#### CONCLUSION

The Court accepts and adopts the Report and Recommendation (Dkt. #29) filed by United States Magistrate Judge Jonathan W. Feldman. Defendant Tabari Facen's motion to suppress evidence seized from 303 Lakeview Park, Rochester, New York (Dkt. #26) is in all respects denied.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "David G. Larimer", is written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
November 5, 2012.